

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

IN RE:

CONSTANTIN HAPAIANU,

Debtor.

NO. 15-15706

ADV. NO. 17-01092

CONSTANTIN HAPAIANU

Plaintiff,

ANSWER AND AFFIRMATIVE DEFENSES
OF SPRUCE INVESTMENTS, LLC

v.

PETER MEDLIN; INDEMNITY CO. OF
CALIFORNIA AND/OR ITS ASSIGNEE
SPRUCE INVESTMENTS, LLC; AND
DISCOVER BANK,

Defendants.

ANSWER

DEFENDANT SPRUCE INVESTMENTS, LLC (“Spruce”), by and through its undersigned attorneys, states and alleges by way of Answer to Plaintiff’s Complaint Seeking Avoidance of Judicial Liens and Disgorgement of Funds Taken in Derogation of Homestead (the “Complaint”) as follows:

1. Spruce admits Complaint ¶ 1.1

ANSWER AND AFFIRMATIVE DEFENSES - Page 1 of 4

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2. Spruce has no knowledge regarding the truth or falsity of the allegations made in Complaint ¶ 1.2.

3. Answering ¶ 1.3, Spruce states that Indemnity Co. of California was a judgment lien creditor of the Debtor at the time of the Debtor's bankruptcy filing, and that on or about March 21, 2017, two judgments held by Indemnity Co. of California were assigned in full to Spruce. Indemnity Co. of California is not currently a lienholder against the Property and should be dismissed from this lawsuit.

4. Spruce admits ¶ 1.4.

5. Spruce has no knowledge regarding the truth or falsity of the allegations made in Complaint ¶ 1.5.

6. Answering ¶ 2.1, Spruce admits this Court has jurisdiction to decide this matter and that this is a core proceeding.

7. Answering ¶ 2.2, Spruce states that without respect as to whether *Stern v. Marshall* applies, Spruce consents to entry of final orders or judgment by the Bankruptcy Judge.

8. Spruce admits the first sentence of ¶ 3.1. Spruce has no knowledge regarding the truth or falsity of the allegations in the second sentence and therefore denies.

9. Spruce denies ¶ 3.2.

10. Answering ¶ 3.3, Spruce admits that both Washington Federal and Bank of America held deeds of trust against the property. Spruce has no knowledge regarding specific amounts of debt. Further, the paragraph does not specify on what dates the amounts were measured.

11. Spruce has no knowledge regarding the truth or falsity of the allegations made in Complaint ¶ 3.4.

12. Spruce admits ¶ 3.5.

13. Spruce admits ¶ 3.6.

1 14. Spruce has no knowledge regarding the truth or falsity of the allegations made in Complaint
2 ¶ 3.7.

3 15. Spruce has no knowledge regarding the truth or falsity of the allegations contained in ¶ 3.8,
4 and therefore denies. Spruce further states that both the tax assessments and the referenced order speak
5 for themselves.

6 16. Spruce denies the remainder of Plaintiff's Complaint.

7 **AFFIRMATIVE DEFENSES**

8 Spruce states by way of affirmative defense as follows:

- 9 1. Failure to state a claim upon which relief may be granted.
10 2. Equitable estoppel.
11 3. Judicial estoppel.
12 4. Laches.
13 5. Lack of good faith.
14 6. Payment and release.
15 7. Detrimental reliance.
16 8. Prejudice.
17 9. Spruce reserves the right to assert additional affirmative defenses following discovery.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Defendant Spruce Investments, LLC, requests the following relief:

- 20 1. Dismissal of Plaintiff's Complaint, with prejudice;
21 2. An award of costs and reasonable attorney's fees to the extent permitted by applicable law;

22 and
23
24

1 3. Such other relief as the Court deems just and equitable.

2 DATED July 26, 2017.

3 WENOKUR RIORDAN PLLC

4 */s/ Alan J. Wenokur*

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Alan J. Wenokur, WSBA #13679

6 Attorneys for Spruce Investments, LLC

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25 ANSWER AND AFFIRMATIVE DEFENSES - Page 4 of 4

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